

FORM TO BE USED BY A PRISONER IN
FILING A CIVIL RIGHTS COMPLAINT

FILED

AUG 18 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OHIO**

BRIAN KEITH ALFORD

(Enter above the full name of the plaintiff in this action)

VS.

ROBERT ZILLES, MS. BACKER, CANDY BABA,
DR. DE LA CRUZ, DEREK BURKHART,

DENNIS SEGER, DR. PORTER

(Enter above the full name of the defendant(s) in this action)

CIVIL CASE NO. 3:21-CV-1123

JUDGE CARR

**COMPLAINT
AMENDED**

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? YES ☒ NO ☐
- B. If your answer to A is yes, describe the lawsuit in the space below, (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit

Plaintiffs BRIAN KEITH ALFORD

Defendants GARY MORM, et al

2. Court (if federal court, name the district; if state court, name the county)

SOUTHERN DISTRICT OF OHIO

3. Docket Number 2:19-CV-1497

4. Name of judge to whom case was assigned

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5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

DISMISSED

6. Approximate date of filing lawsuit APRIL 12, 2019

7. Approximate date of disposition JULY 29, 2020

II. Place of Present Confinement TOLEDO CORRECTIONAL INSTITUTION

A. Is there a prisoner grievance procedure in this institution? YES ☒ NO ☐

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?
YES ☒ NO ☐

C. If your answer is YES,

1. What steps did you take? EXHAUSTED ADMIN REMEDIES, NOTIFIED
DIRECTOR STATE MOBILE LEAD SERVICES

2. What was the result? NO RESULT IN MY BEHALF, AFFIRMED
DENIALS, NO RESPONSE FROM DIRECTOR

D. If your answer is NO, explain why not _____

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities?

YES ☒ NO ☐

F. If your answer is YES,

1. What steps did you take? KITAS TO ADMINISTRATION, ADMINISTRATIVE
PROCEDURES EXHAUSTED

3.

(Statement of Claim Continued)

[SEE ATTACHED]

NOTE: AT THE TIME OF THE FILING OF THIS COMPLAINT, PLAINTIFF WAS UNDER THE IMMINENT DANGER OF DEATH OR SERIOUS BODILY HARM FOR FAILURE TO TREAT FOR A LIFE-THREATENING ILLNESS [HEP-C]. THEREFORE, PLAINTIFF REQUEST TO PROCEED WITHOUT PAYING THE FULL FILING FEE [IN FORMA PAUPERIS STATUS].

TESTING TO DONATE A KIDNEY TO HIS MOTHER LOVELLA ALFORD. SINCE ARRIVING INTO CUSTODY OF ODIC, PLAINTIFF HAS BEEN DENIED TREATMENT FOR THIS LIFE-THREATENING CHRONIC DISEASE IN SPITE OF HIS BLOOD RESULTS BEING ABNORMAL AND EXHIBITING ADVERSE SYMPTOMS INCLUDING NAUSEA, LACK OF APPETITE, STOMACH PAIN, THROAT PAINS AND ACHES, DIARRHEA, SHAKING, DIZZINESS, BLACKOUTS, BUT NOT LIMITED TO.

UNTREATED HEP-C CAN LEAD TO SEVERE INTERNAL ORGAN DAMAGE OR FAILURE, CHRONIC LIVER DISEASE, CIRRHOSIS, LIVER CANCER, AND DEATH IS THE MOST COMMON CAUSE OF END LIVER DISEASE AND HEPATOCELLULAR CANCER, AND IS RESPONSIBLE FOR UP TO 13,000 DEATHS PER YEAR. WHILE IN FEDERAL CUSTODY FROM 2003 UNTIL 2011, PLAINTIFF'S VIRAL LOAD HAS BEEN AS HIGH AS 3 TO 6 MILLION PARTS WHICH INDICATES THE HEP-C INFECTION IS ACTIVE AND POSSIBLY CAUSING DAMAGE TO INTERNAL ORGANS (LIVER, KIDNEYS), WHICH REQUIRES IMMEDIATE TREATMENT. PLAINTIFF IS 64 YEARS OLD, AND HIS APERE IS CURRENTLY 1. ON FEBRUARY 22ND, 2018 PLAINTIFF SUBMITTED A HEALTH SERVICES REQUEST FOR ISSUES RELATING TO: (1) AN ULTRA SOUND, BLOOD WORK AND TREATMENT FOR HEP-C INFECTION WITH HARVONI, AND OTHER THINGS. PLAINTIFF WAS EXAMINED BY A NURSE AND ADVISED NO RECENT BLOOD WORK HAD BEEN PERFORMED FOR HEP-C, AND THAT HE WOULD BE SCHEDULED TO SEE CHIEF MEDICAL EXAMINER OF TDCJ DR. DE LA CRUZ BECAUSE OF HIS REQUEST, AND WAS

ON FEBRUARY 29TH, 2018 PLAINTIFF REPORTED TO SEE DR. DE LA CRUZ AT 1:30PM BUT WAS ADVISED TO RETURN AT 2:30PM. DUE TO A BACKLOG IN SCHEDULING. PLAINTIFF RETURNED AT 2:30PM AND AT 3:30PM WAS ADVISED HE WOULD BE RESCHEDULED THE FOLLOWING WEEK DUE TO MEETINGS. ON MARCH 1ST, 2018 PLAINTIFF REPORTED TO MEDICAL TO SEE DR. DE LA CRUZ AND WAS ADVISED BY DR. DE LA CRUZ: (1) HIS PLATELETS, ALT LEVELS REQUIRED FOR BIOPSY, SONOGRAM AND TREATMENT WITH HARVONI WERE ONLY 1/10TH THE REQUIRED LEVELS (IN SPITE OF NO RECENT BLOOD WORK PRESENT IN MY FILE AND, DOCUMENTATION CONFIRMING MY BLOOD WORK WAS NOT NORMAL; (2) I DID NOT HAVE DVT BECAUSE I WOULD BE DEAD RIGHT NOW AND MY LEG WOULD BE SWOLLEN (IN SPITE OF NOT EXAMINING MY LEG FOR DRUGS), AND THAT BURNING COULD BE ATTRIBUTED TO NERVE DAMAGE IN MY LEG; (3) ADVISED XRAY'S WOULD BE ORDERED FOR LEFT ARM AND IF ABNORMAL, ADDITIONAL TESTING WOULD BE PERFORMED SUCH AS MRI, EKG, AND; (4) BURNING WHILE URINATING COULD BE CAUSED BY AN ENLARGED PROSTATE.

ON MARCH 5TH, 2019 PLAINTIFF WAS EXAMINED BY CNP BABBA FOR CHRONIC CARE FOR HEP-C AND HYPERTENSION. WHEN EXAMINED, PLAINTIFF RAISED CONCERNS REGARDING CONTINUED

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PROBLEMS WITH WEIGHT LOSS, STOMACH PAIN, SOAR THROAT,
HEADACHES, NAUSEA, ACUTE EAR PAIN, PAIN ON LEFT SIDE
OF JAW. CRAMPING, DIZZINESS, AND FEELING FAINT. CNP
BARB'S RESPONSE WAS "IF A SERIOUS NEED ARISES, WOULD
YOU LIKE RESUSCITATION"? PLAINTIFF'S SHOCKED REPLY
WAS "ABSOLUTELY"! IT IS OBVIOUS FROM THE ACTIONS
OF DEFENDANTS DE LA CRUZ AND BARB THAT THE
INTENT OF THESE DEFENDANTS IS THE DEMISE OF
PLAINTIFF (I.E. DEATH).

SINCE 2017 PLAINTIFF HAS BEEN DENIED PROPERLY
FITTED MEDICALLY APPROVED FOOTWEAR FOR CIRCULATORY
PROBLEMS WITH HIS FEET, BALANCE PROBLEMS, SCLYOSIS
AND DEGENERATIVE SPINE DISORDER. ROBERT ZILLES IS
THE HEALTH CARE ADMINISTRATOR AT TOCZ AND MS. BARKER
IS THE ASSISTANT HEALTH CARE ADMINISTRATOR. BOTH
DEFENDANTS HAVE WORKED IN UNISON TO DENY MEDICALLY
APPROVED FOOTWEAR AUTHORIZED BY TOCZ FOOT DOCTOR,
FEDERAL BUREAU OF PRISONS. IT WAS NOT UNTIL
MARCH 31ST, 2021 THAT PLAINTIFF WAS GIVEN VERIFICATION
TO PURCHASE MEDICALLY APPROVED BOOTS (SIZE 12 3-E)
AT HIS EXPENSE. AS A RESULT OF BEING DENIED MEDICALLY

TOC 0670001218 & 15201 Filed 08/19/21 3 of 28 PageID #8
ATTACHED HERETO]. PHOTOS, AND MEDICAL DOCUMENTATION
WERE PROVIDED TO MS. ABBOTT WITH MY INITIAL REQUEST
IN 6-15-20 AND 7-30-20 [SEE ATTACHMENT #2 ATTACHED
HERETO]. AFTER A THIRD EVALUATION BY MEDICAL STAFF
ON 3-19-21, 3-25-21, AND TWICE ON 3-31-21 APPROVAL
TO PURCHASE WAS FINALLY GRANTED [SEE PASSES,
AND TOC 0321001122 3-10-21 ATTACHMENT #3 ATTACHED]

APPROVED BOOTS AND BEING ISSUED FOOTWEAR THAT IS
TOO NARROW (12 ZE) IN EARLY 2018, PLAINTIFF HAS
SUFFERED NUMBNESS IN HIS TOES, FEET, AND LOWER
LEGS, WHICH WAS DIAGNOSED AS NEUROPATHY
BY DR. PORTER. PLAINTIFF HAD BEEN APPROVED
FOR ISSUANCE OF MEDICALLY APPROVED SIZE 12 3E
BOOTS IN EARLY 2018 BY THE THEN ORTHOPEDIC
DOCTOR. HOWEVER, WHEN PLAINTIFF WENT TO
MEDICAL TO PICK THE BOOTS UP, HE LEARNED
THEY WERE ACTUALLY SIZE 12 4E - ONE WIDTH
SIZE TOO WIDE. THIS ERROR WAS BROUGHT
TO THE ATTENTION OF AHC A BARKER, WHO
CONFIRMED IN WRITING THAT THE PROPER SIZE
12 3E BOOT WOULD BE ORDERED, AND BECAUSE
IT IS NOT A COMMON SIZE THE BOOTS WOULD BE
MADE TO ORDER. HOWEVER, WHEN PLAINTIFF WENT
TO MEDICAL TO PICK THE BOOTS UP, HE LEARNED
THEY WERE ACTUALLY A SIZE 12 ZE - ONE WIDTH
SIZE TOO NARROW. WHEN PLAINTIFF BROUGHT
THIS ERROR TO THE ATTENTION OF AHC A BARKER,
HE WAS TOLD, "WHATEVER SIZE THEY ARE SUPPOSED
TO BE, THAT'S WHAT THEY ARE. THE COMPANY INFORMED
US THEIR BOOTS RUN SMALLER. HOWEVER, BEFORE

LEAVING MEDICAL PLAINTIFF EXPLAINED TO STAFF THE BOOTS WERE TOO NARROW. ON MARCH 29, 2018 PLAINTIFF WAS INTERVIEWED BY FORMER HCA KROGGER, AMCA BARKER, FORMER UNIT MANAGER HERNANDEZ AND CURRENT HCA ZILLES REGARDING THE FAILURE TO ISSUE PROPERLY FITTED BOOTS. PLAINTIFF WAS ADVISED HE WOULD BE STRUCK WITH THE WRONG SIZE BOOTS ONCE HE SIGNED FOR THEM. ON APRIL 6, 2018 THEN INSPECTOR OF TOCZ DEREK BURKHARDT ATTEMPTED TO JUSTIFY THE ISSUANCE OF THE WRONG SIZE BOOTS AND ALLEGED THE PROPER SIZE 12 3E BOOTS WERE INITIALLY ISSUED AND ORDERED BUT THAT PLAINTIFF ALLEGED THEY WERE TOO BIG SO THEY WERE RETURNED FOR A SMALLER SIZE 12 2E AND THAT PLAINTIFF AGREED THEY FIT WELL. THE ADMINISTRATIVE REMEDIES AND KITE'S ATTACHED CLEARLY DISPROVE THIS ERRONEOUS ALLEGATION. HCA ZILLES RECENTLY ATTEMPTED TO OVERRIDE DR. PORTER'S MEDICAL APPROVAL FOR SIZE 12 3E BOOTS WHEN CNA BRABBS ATTEMPTED TO CONCLUDE FACTS TO DENY ISSUANCE OF PROPERLY FITTED MEDICALLY APPROVED FOOTWEAR. [SEE ATTACHMENTS]

ON 3-9-21 UNIT MANAGER ABBOTT DENIED APPROVAL TO PURCHASE MEDICALLY APPROVED BOOTS, TENNIS SHOES, AND SHOWER SHOES AND ADVISED THAT BOOTS MUST BE APPROVED THROUGH MEDICAL (TOCZ0321000974 3-9-21; TOCZ0620001218 6-15-20; TOCZ0720002684 7-30-20 & ATTACHED HERETO). PHOTOS, AND MEDICAL DOCUMENTATION WERE PROVIDED TO MS. ABBOTT WITH MY INITIAL REQUEST IN 6-15-20 AND 7-30-20 (SEE ATTACHMENT #2 ATTACHED HERETO). AFTER A THIRD EVALUATION BY MEDICAL STAFF ON 3-19-21, 3-25-21, AND TWICE ON 3-31-21 APPROVAL TO PURCHASE WAS FINALLY GRANTED (SEE PASSES, AND TOCZ0321001122 3-10-21 ATTACHMENT #3 ATTACHED). THIS WAS AFTER ATTEMPTING PURCHASE SINCE 2014 THRU TWO PRIOR WARDENS AND NUMEROUS STAFF (SEE KITE 2-22-18 WARDEN GLENNAN, KITE 2-27-18 UNIT MANAGER HERNANDEZ, HEALTH SERVICE REQUEST 6-24-18, ADA RESPONSE 12-10-18, ADA REQUEST 10-16-18, TOCZ1218000168 12-10-18, KITE'S ADA COORDINATOR 10-15-18 AND 11-19-18, KITE HEALTH SERVICES 3-10-18, TOCZ0318000369 3-22-18 KITE 12-27-17 MS. BARKER, KITE 2-1-18 MS. BARKER, KITE 11-4-17 SPECIAL DUTY CAPTAIN) KITE 12-18-18 INSPECTOR BURKHARD ATTACHMENT #4 ATTACHED). AFTER RECEIVING A SHIPMENT PRIOR

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TO APPROVAL BY MEDICAL DEPARTMENT FOR PURCHASE OF
BOOTS, A CASH SLIP FOR POSTAGE TO RETURN THE MAX
TOE FLORSHEIM WAS PROCESSED ON 4-13-21 AND MAILROOM
WAS NOTIFIED BOOTS WERE ON BACKORDER AND WOULD
ARRIVE NEXT [SEE TOCZ0421000537 4-6-21, TOCZ0421001344
4-14-21, CASH SLIP 4-2-21, RECEIPT 3-29-21 ^{ATTACHMENT #5} ATTACHED].
HOWEVER, ON 5-29-21 CASH SLIP FOR \$414.83,
AND BOOT APPROVAL WAS SUBMITTED TO UNIT MANAGER
ABBOTT, WAS PROCESSED ON 6-9-21 YET, ON 6-21-21
BOOTS WERE DENIED INITIALLY, ON MS. ABBOTT'S REQUEST,
THEN PURPORTEDLY PER DWG WALTERS, AND THEN
SUBSEQUENTLY BECAUSE DENNIS SEGER - MEDICAL
ALLEGED I WAS NOT AUTHORIZED TO PURCHASE
BOOTS [SEE TOCZ0621002162 6-24-21 MAIL ROOM,
TOCZ0621001903 6-22-21 MS. ABBOTT, TOCZ0621001884
6-22-21 MAILROOM] [SEE ALSO TOCZ0621002226 6-25-21
MAILROOM]. RATHER THAN PERMIT DESTRUCTION OF
BOOTS, I AM FORCED TO RETURN THEM AT MY
EXPENSE AND CONTINUE TO SUFFER AS A RESULT
OF DENNIS SEGER'S CONTINUED VIOLATION OF
MY EIGHTH AMENDMENT RIGHTS UNDER THE UNITED
STATES CONSTITUTION [SEE ATTACHMENT #5 LETTER 6-23-21]

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MAILROOM SUPERVISOR, (CONTRABAND SLIP 6-21-21 ATTACHED)
ON 7-1-21 PLAINTIFF SUBMITTED A SECOND INMATE
REASONABLE ACCOMMODATION TO RECEIVE THE MEDICALLY
APPROVED 12 3E BOOTS BEING HELD BY MAILROOM, AND
WAS LATER INTERVIEWED BY TROY D. REED, A DA
COORDINATOR AT TDCJ. TROY REED ADVISED THAT EVERYONE
WAS DENYING APPROVAL HAD BEEN GIVEN, AND I
ADVISED THAT DR. PORTER EXAMINED ME AGAIN ON
7-19-21 TO VERIFY MY NEED FOR THE BOOTS, AND
THAT DR. PORTER ADVISED THAT HE WAS MEETING WITH
DENNIS SEGER. TROY REED ADVISED THAT REGARDLESS
OF TROY REED'S RECOMMENDATION, THE WARDEN COULD
STILL APPROVE MY REQUEST. ON 7-25-21 I ADVISED
TROY REED THIS WAS NOT TRUE, BASED UPON THE
AMERICANS WITH DISABILITIES DISCLAIMER IN THE TDCJ
HANDBOOK PAGE 7, 8. ON 8-2-21 TROY REED
HAND DELIVERED THE WARDEN'S DENIAL OF MY REQUEST,
BASED UPON ERRONEOUS INFORMATION ADDED TO
MY FILE RECENTLY, AND DR. PORTER'S RECENTLY
OF APPROVAL FOR 12 3E BOOTS. THIS IS A
CLEAR SUBVERSIVE ACT COMMITTED BY DR. PORTER,
DR. BABB, AND DENNIS SEGER TO VIOLATE MY
EIGHTH AMENDMENT RIGHTS UNDER U.S. CONSTITUTION.

PRISON OFFICIALS MAY NOT ACT WITH DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS. THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION CLEARLY PROHIBITS THESE VIOLATIONS BY INDIVIDUALS EXERCISING POWER POSSESSED BY VIRTUE OF STATE LAW MADE POSSIBLE ONLY BECAUSE THE WRONGDOER IS CLOTHED WITH AUTHORITY OF STATE LAW UNITED STATES V. CLASSIC, 313 U.S. 299, 326, 61 S. CT. 1031, 85 LED 2d 1368 (1941); 12 C.S. 2921.45 (A).

WHEN PRISON OFFICIALS COMMIT AFFIRMATIVE ACTS, PARTICIPATE IN ANOTHER AFFIRMATIVE ACTS, OR OMITTED TO PERFORM AN ACT WHICH THEY ARE REQUIRED TO DO THAT CAUSES A DEPRIVATION OF RIGHTS, UNDER 42 U.S.C. 1983 THEY ARE LIABLE. IN ADDITION, IMMUNITY IS UNAVAILABLE. DENYING A REASONABLE REQUEST FOR MEDICAL CONDITIONS THAT ARE "LIFE-THREATENING" FALL WITHIN THIS REQUIREMENT.

CONCLUSION

FOR THE FOREGOING REASONS, PERMISSION TO SUPPLEMENT DENNIS SEGER IS REQUESTED, AS WELL AS DR. PORTER.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes).

- (1) A DECLARATION THAT THE ACTS AND/OR OMISSIONS DESCRIBED HEREIN VIOLATED PLAINTIFF'S RIGHTS UNDER OHIO AND UNITED STATES CONSTITUTIONS
- (2) A PRELIMINARY INJUNCTION
- (3) NOMINAL DAMAGES AUTHORIZED BY LAW AND JURY DETERMINATION
- (4) PUNITIVE DAMAGES IN EXCESS OF \$1,000,000.00 AGAINST EACH DEFENDANT TO BE DETERMINED BY JURY
- (5) A TRIAL ON ALL ISSUES TRIABLE BY JURY
- (6) APPOINTMENT OF COUNSEL
- (7) ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND EQUITABLE

Signed this 6TH day of AUGUST, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

8-7-21

(Date)

Bm Kim A 196-744

(Signature of Plaintiff)